significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

AAL AK E2 Sitka, AK [Amended]

Sitka Rocky Gutierrez Airport, AK
(Lat. 57°02′49″ N, long. 135°21′40″ W)

That airspace extending upward from the surface within a 4.1-mile radius of the airport beginning at the 105° bearing from the airport clockwise to the 337° bearing from the airport, then to the point of beginning 4.1 miles east of the airport, and within 2.7 miles each side of the 150° bearing from the airport extending from the 4.1-mile radius to 6.6 miles southeast of the airport, and within 1.5 miles each side of the 209° bearing from the airport extending from the 4.1-mile radius to 4.4 miles southwest of the airport, and within 1.2 miles each side of the 314° bearing from the airport extending from the 4.1-mile radius to 6 miles northwest of the airport, and within 1.1 miles each side of the 320° bearing from the airport extending from the 4.1-mile radius to 5.2 miles northwest of the airport.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E2 Surface Area.

* * * * *

AAL AK E4 Sitka, AK [Removed]

Sitka Rocky Gutierrez Airport, AK
(Lat. 57°02′49″ N, long. 135°21′40″ W)

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Sitka, AK [Amended]

Sitka Rocky Gutierrez Airport, AK
(Lat. 57°02′49″ N, long. 135°21′40″ W)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of the airport beginning at the 102° bearing from the airport clockwise to the 357° bearing from the airport, then to the point of beginning 7.3 miles east of the airport, and within 4.6 miles each side of the 212° bearing from the airport, extending from the 7.3-mile radius to 25.2 miles southwest of the airport, and within 4.5 miles each side of the 316° bearing from the airport extending from the 7.3-mile radius to 9.8 miles northwest of the airport; excluding that airspace that extends beyond 12 miles from the coast.

Issued in Des Moines, Washington, on February 1, 2022.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–02454 Filed 2–4–22; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2021–0885; FRL–9523–01–R5]

Air Plan Approval; Wisconsin; Redesignation of the Wisconsin Portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin Area to Attainment of the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Wisconsin portion of the Chicago-Naperville, IL-IN-WI area (Chicago area) is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and to act in accordance with a request from the Wisconsin Department of Natural Resources (Wisconsin or the State) to redesignate the Wisconsin portion of the area to attainment for the 2008 ozone NAAQS, because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Wisconsin portion of the Chicago 2008 ozone area consists of the portion of Kenosha County bounded by the I–94 corridor and the area east to Lake Michigan (Kenosha portion). Wisconsin submitted this request on December 3, 2021. EPA is proposing to approve, as a revision to the Wisconsin State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone NAAQS through 2035 in the Chicago area. EPA also finds adequate and is proposing to approve Wisconsin's 2025 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Kenosha portion. Finally, pursuant to section 110 and part D of the CAA, EPA is proposing to approve the enhanced Inspection/Maintenance (I/M) program performance modeling analysis included in Wisconsin's December 3, 2021 submittals, because it satisfies the serious enhanced I/M requirements for the Kenosha portion.

DATES: Comments must be received on or before March 9, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2021–0885 at *https://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is EPA proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the Wisconsin portion of the Chicago nonattainment area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2019–2021 for the entire Chicago area, and that the Kenosha portion has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Kenosha portion from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Wisconsin SIP, the State's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the Kenosha portion. The maintenance plan is designed to keep the Chicago area in attainment of the 2008 ozone NAAQS through 2030. EPA also finds adequate and is proposing to approve the newly-established 2030 and 2035 MVEBs for the Kenosha portion. Finally, EPA is proposing to approve the enhanced I/M program performance modeling analysis included in Wisconsin's December 3, 2021 submittals, because it satisfies the serious enhanced I/M requirements for the Kenosha portion.

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On March 27, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all ozone monitoring sites in the area. *See* 40 CFR 50.19 and appendix U to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality assured ozone monitoring data. The Chicago area was originally designated as a marginal nonattainment area for the 2008 ozone NAAQS on June 11, 2012 (77 FR 34221), effective July 20, 2012. EPA reclassified the Chicago area from marginal to moderate nonattainment on May 4, 2016 (81 FR 26697), effective June 3, 2016. The Chicago area was again reclassified to serious on August 23, 2019 (84 FR 44238), effective September 23, 2019.

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the ''Calcagni Memorandum'');
5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. What is EPA's analysis of Wisconsin's redesignation request?

A. Has the Chicago-Naperville, IL-IN-WI area attained the 2008 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the entire Chicago area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air

quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90 percent of the days within the ozone monitoring seasons,[1] on average, for the 3-year period, with a minimum data completeness of 75 percent during the ozone monitoring season of any year during the 3-year period. *See* section 4 of appendix U to 40 CFR part 50.

EPA has reviewed the available ozone monitoring data from monitoring sites in the Chicago area for the 2019–2021 period. These data have been quality assured, are recorded in the AQS, and have been certified. These data demonstrate that the Chicago area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design values) for each monitoring site are summarized in Table 1.

TABLE 1—ANNUAL FOURTH HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE CHICAGO-NAPERVILLE, IL-IN-WI 2008 OZONE AREA (ppm)

Site	County	Year			Average
		2019	2020	2021	2019–2021
Wisconsin					
55–059–0019	Kenosha	0.067	0.078	0.079	0.074
55–059–0025	Kenosha	0.066	0.078	0.072	0.072
Illinois					
17–031–0001	Cook	0.070	0.076	0.068	0.071
17–031–0032	Cook	0.070	0.077	0.077	0.075
17–031–0076	Cook	0.065	0.068	0.070	0.067
17–031–1003	Cook	0.069	0.077	0.068	0.071
17–031–1601	Cook	0.068	0.078	0.072	0.072
17–031–3103	Cook	0.064	0.068	0.067	0.064
17–031–4002	Cook	0.064	0.079	0.067	0.070
17–031–4007	Cook	0.066	0.072	0.069	0.069
17–031–4201	Cook	0.069	0.079	0.075	0.074
17–031–7002	Cook	0.069	0.074	0.078	0.073
17–043–6001	DuPage	0.062	0.073	0.069	0.070
17–089–0005	Kane	0.071	0.073	0.068	0.070
17–097–1007	Lake	0.065	0.076	0.077	0.073
17–111–0001	McHenry	0.068	0.076	0.069	0.071
17–197–1011	Will	0.060	0.067	0.065	0.064
Indiana					
18–089–0022	Lake	0.065	0.074	0.070	0.069
18–089–2008	Lake	0.065	0.071	0.068	0.068
18–127–0024	Porter	0.068	0.076	0.072	0.072
18–127–0026	Porter	0.071	0.067	0.066	0.068

The Chicago area's 3-year ozone design value for 2019–2021 is 0.075 ppm,[2] which meets the 2008 ozone NAAQS. Therefore, in today's action, EPA proposes to determine that the Wisconsin portion of the Chicago area is attaining the 2008 ozone NAAQS.

EPA will not take final action to determine that the Wisconsin portion of the Chicago area is attaining the NAAQS nor to approve the redesignation of the Kenosha portion of the Chicago area if the design value of a monitoring site in the area violates the NAAQS after proposal but prior to final approval of the redesignation. As discussed in section IV.D.3. below, Wisconsin has committed to continue monitoring ozone in this area to verify maintenance of the 2008 ozone NAAQS.

B. Has Wisconsin met all applicable requirements of section 110 and part D of the CAA for the Kenosha portion, and does Wisconsin have a fully approved SIP for the Kenosha portion under section 110(k) of the CAA?

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). EPA finds that Wisconsin has met all applicable SIP requirements, for purposes of redesignation, under section 110 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2008 ozone NAAQS). Additionally, with the exception of the enhanced I/M requirements of section 182(c)(3) of the CAA, EPA finds that all applicable requirements of the Wisconsin SIP for the area have been fully approved under section 110(k) of the CAA. As discussed below, in this action EPA is proposing to approve Wisconsin's enhanced I/M performance modeling analysis as meeting the serious I/M requirements of section 182(c)(3) of the CAA for the Kenosha portion of the Chicago area under the 2008 ozone NAAQS.

In making these determinations, EPA ascertained which CAA requirements are applicable to the Kenosha portion

[1] The ozone season is defined by state in 40 CFR 58, appendix D. The ozone season for Wisconsin is March–October 15th. *See* 80 FR 65292, 65466–67 (October 26, 2015).

[2] The monitor ozone design value for the monitor with the highest 3-year averaged concentration.

and the Wisconsin SIP and, if applicable, whether the required Wisconsin SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to current applicable requirements of the CAA.

The September 4, 1992, Calcagni memorandum (*see* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. *See also* the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. *See* section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

EPA is proposing to determine that the Chicago area has attained the 2008 ozone standard, under 40 CFR 51.918. If that determination is finalized, the requirements to submit certain planning SIPs related to attainment, including attainment demonstration requirements (the reasonably available control measures (RACM) requirement of section 172(c)(1) of the CAA, the reasonable further progress (RFP) and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA would not be applicable to the area as long as it continues to attain the NAAQS and would cease to apply upon redesignation. In addition, in the context of redesignations, EPA has interpreted requirements related to attainment as not applicable for purposes of redesignation. For example, in the General Preamble EPA stated that:

The section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas. ''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble) 57 FR 13498, 13564 (April 16, 1992).

See also Calcagni memorandum at 6 (''The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.'').

1. Wisconsin Has Met All Applicable Requirements of Section 110 and Part D of the CAA Applicable to the Kenosha Portion for Purposes of Redesignation

a. Section 110 General Requirements for Implementation Plans

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain air pollutants, *e.g.,* NO_X SIP call, the Clean Air Interstate Rule (CAIR), Cross State Air Pollution Rule (CSAPR). However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked to a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426–27 (May 13, 2003).

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2008 ozone NAAQS. The section 110 and part D requirements that are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed Wisconsin's SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation.[3]

b. Part D Requirements

Section 172(c) of the CAA sets forth the basic requirements of air quality

[3] EPA has previously approved provisions of the Wisconsin SIP addressing section 110 elements under the 2008 ozone NAAQS; 80 FR 54725 (September 11, 2015), 79 FR 60064 (October 6, 2014), 82 FR 9515 (February 7, 2017), 81 FR 74504 (October 26, 2016), and 81 FR 3334 (January 21, 2016).

plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Chicago area is classified as serious under subpart 2 for the 2008 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in sections 182(a), (b), and (c) (marginal, moderate, and serious nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

i. Subpart 1 Section 172 Requirements

CAA Section 172(b) requires states to submit SIPs meeting the requirements of section 172(c) no later than three years from the date of the nonattainment designation.

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that are available from adopting RACT on existing sources. Because attainment has been reached in the Chicago area, no additional measures are needed to provide for attainment and section 172(c)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard until redesignation. *See* 40 CFR 51.918.

The RFP requirement under section 172(c)(2) is defined as progress that must be made toward attainment. EPA approved Wisconsin's RFP plan and RFP contingency measures on February 13, 2019 (84 FR 3701).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement was superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has previously approved Wisconsin's NSR program on October 6, 2014 (79 FR 160064) and February 7, 2017 (82 FR 9515). However, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that the NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Wisconsin has demonstrated that the Kenosha portion will be able to maintain the 2008 ozone NAAQS without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Wisconsin's PSD program will become effective in the Kenosha portion upon redesignation to attainment. EPA approved Wisconsin's PSD program on January 22, 2003 (68 FR 2909) and February 25, 2010 (75 FR 8496).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Wisconsin SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

Section 172(c)(9) requires the SIP to provide for the implementation of contingency measures if the area fails to make RFP or to attain the NAAQS by the attainment deadline. As noted previously, EPA approved Wisconsin's contingency measures for purposes of RFP on February 13, 2019 (84 FR 3701). With respect to contingency measures for failure to attain the NAAQS by the attainment deadline, this requirement is not relevant for purposes of redesignation because the Chicago area has demonstrated monitored attainment of the 2008 ozone NAAQS. (General Preamble, 57 FR 13564). *See also* 40 CFR 51.918.

ii. Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity), as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements [4] as not applying for purposes of evaluating a redesignation request under section 107(d), because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Wisconsin has an approved conformity SIP for the Kenosha portion. *See* 79 FR 10995 (February 27, 2014).

iii. Subpart 2 Section 182(a), (b), and (c) Requirements

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area. EPA approved Wisconsin's base year emissions inventory for the Kenosha portion on March 7, 2016 (81 FR 11673) and February 13, 2019, (84 FR 3701).

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Kenosha portion is not subject to the

[4] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of MVEBs, such as control strategy SIPs and maintenance plans.

section 182(a)(2) RACT ''fix up'' requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Wisconsin complied with this requirement for the Kenosha portion under the prior 1-hour ozone NAAQS. *See* 59 FR 41709 (August 15, 1994) and 60 FR 20643 (April 27, 1995).

Section 182(a)(2)(B) requires each state, with a marginal ozone nonattainment area that implemented or was required to implement an I/M, program prior to the 1990 CAA amendments, to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2008 ozone standard and the consideration of Wisconsin's redesignation request for this standard, the Kenosha portion is not subject to the section 182(a)(2)(B) requirement, because the area was designated as nonattainment for the 2008 ozone standard after the enactment of the 1990 CAA amendments and because Wisconsin complied with this requirement for the Kenosha portion under the prior 1-hour ozone NAAQS.

Section 182(a)(3)(B) requires the submission of an emission statement SIP. EPA approved Wisconsin's emission statement SIP for the Kenosha portion for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3701).

Section 182(b)(1) requires the submission of an attainment demonstration and RFP plan. Wisconsin submitted an attainment demonstration and RFP plan for the Kenosha portion on December 1, 2020. EPA approved Wisconsin's RFP plan and RFP contingency measures for the Kenosha portion for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3701). Because attainment has been reached, section 182(b)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard. If EPA finalizes approval of the redesignation of the area, EPA will take no further action on the attainment demonstration submitted by Wisconsin.

Section 182(b)(2) requires states with moderate nonattainment areas to implement VOC RACT with respect to each of the following: (1) All sources covered by a Control Technology Guideline (CTG) document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and (3) all other major non-CTG stationary sources. EPA approved Wisconsin's VOC RACT program for the Kenosha portion for the 2008 ozone NAAQS on September 16, 2020 (85 FR 57729).

Section 182(b)(3) requires states to adopt Stage II gasoline vapor recovery regulations. On May 16, 2012 (77 FR 28772), EPA determined that the use of onboard vapor recovery technology for capturing gasoline vapor when gasoline-powered vehicles are refueled is in widespread use throughout the highway motor vehicle fleet and waived the requirement that current and former ozone nonattainment areas implement Stage II vapor recovery systems on gasoline pumps. EPA approved a revision to Wisconsin's Stage II program on November 4, 2013 (78 FR 65875) because the State has demonstrated that onboard refueling vapor recovery systems will be in widespread use in southeast Wisconsin by 2016, making Stage II redundant.

Section 182(b)(4) requires an I/M program for each state with a moderate ozone nonattainment area. EPA approved Wisconsin's I/M program on August 16, 2001 (66 FR 42949) and approved revisions to the program on September 19, 2013 (78 FR 57501). EPA approved Wisconsin's I/M program certification for the Kenosha portion for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3701).

Regarding the source permitting and offset requirements of sections 182(a)(2)(C), 182(a)(4), and 182(b)(5), Wisconsin currently has a fully-approved part D NSR program in place. EPA approved Wisconsin's NSR SIP on January 18, 1995 (60 FR 3538) and February 7, 2017 (82 FR 9515). Further, EPA approved Wisconsin's SIP revision addressing the NSR requirements for the 2008 ozone NAAQS on May 3, 2019 (84 FR 18989). In addition, EPA approved Wisconsin's PSD program on October 6, 2014 (79 FR 60064). The State's PSD program will become effective in the Kenosha portion upon redesignation of the area to attainment. Section 182(f) requires states with moderate nonattainment areas to implement NO_X RACT. EPA approved Wisconsin's NO_X RACT SIP on October 19, 2010 (75 FR 64155). EPA proposed approval of Wisconsin's certification that its current NO_X RACT SIP meets the serious NO_X RACT requirements for the Kenosha portion for the 2008 ozone NAAQS on December 7, 2022 (86 FR 69207). The public comment period for this proposed rule ended on January 6, 2022. EPA received no comments on the proposal. EPA will not finalize this redesignation until we've approved the NO_X RACT program.

Section 182(c)(1) of the CAA requires states with nonattainment areas classified serious or higher to adopt and implement a program to improve air monitoring for ambient concentrations of ozone, NO_X and VOC. EPA initiated the Photochemical Assessment Monitoring Stations (PAMS) program in February 1993. The PAMS program required the establishment of an enhanced monitoring network in all ozone nonattainment areas classified as serious, severe, or extreme. On March 18, 1994 (59 FR 6021), EPA approved Wisconsin's SIP revision establishing an enhanced monitoring program (EMP). EPA proposed approval of Wisconsin's certification that its current EMP meets the serious requirements for the Kenosha portion for the 2008 ozone NAAQS on December 7, 2022 (86 FR 69207). The public comment period for this proposed rule ended on January 6, 2022. EPA received no comments on the proposal. EPA will not finalize this redesignation until it has approved the EMP program.

CAA section 182(c)(3) requires states with ozone nonattainment areas classified as serious or higher to adopt and implement a program for an enhanced I/M program. Wisconsin submitted an enhanced I/M performance modeling analysis on December 3, 2021. For the reasons discussed in section VI., below, EPA is proposing to approve the performance modeling analysis submitted by Wisconsin as meeting the section 182(c)(3) serious enhanced I/M requirements for the Kenosha portion under the 2008 ozone NAAQS.

CAA section 182(c)(4) requires states with ozone nonattainment areas classified as serious or higher to submit a SIP revision describing implementation of a Clean Fuel Vehicle Program (CFVP), as described in CAA title II part C (40 CFR 88). EPA approved Wisconsin's CFVP on March 11, 1996 (61 FR 9641). EPA issued a memorandum on July 21, 2005, which found that then-current emission standards for vehicles (regulated under 40 CFR 86) were as or more stringent than the emission standards specified in 40 CFR 88 for the CFVP. EPA proposed approval of Wisconsin's certification that its current CFVP meets the serious CFVP requirements for the Kenosha portion for the 2008 ozone NAAQS on December 7, 2022 (86 FR 69207). The public comment period for this proposed rule ended on January 6, 2021. EPA received no comments on the proposal. EPA will not finalize this redesignation until we've approved the CFVP program.

The remaining Section 182(c) requirements for areas classified as serious include: An attainment demonstration, RFP, RFP contingency measures, transportation conformity motor vehicle emissions budgets, and a transportation control demonstration. These elements are not needed to redesignate the Kenosha portion because the area has attained of the 2008 ozone NAAQS. This rationale is outlined in 40 CFR 51.918, the general preamble, and the Calcagni memorandum at 6 (''The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.'') EPA believes that it is reasonable to interpret these provisions so as not to require areas that are meeting the ozone standard to make the SIP submissions to EPA described in the provisions as long as the areas continue to meet the standard. If such an area were to monitor a violation of the standard prior to being redesignated to attainment, however, the area would have to address the pertinent requirements and submit the SIP revisions described in those provisions to EPA.

Thus, as discussed above, with approval of Wisconsin's section 182(c)(3) enhanced I/M SIP, EPA finds that the Kenosha portion will satisfy all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Kenosha Portion Has a Fully Approved SIP for Purposes of Redesignation Under Section 110(k) of the CAA

At various times, Wisconsin has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, if EPA finalizes approval of Wisconsin's enhanced I/M performance modeling analysis as meeting the requirements of section 182(c)(3) of the CAA, EPA will have fully approved the Wisconsin SIP for the Kenosha portion under section 110(k) for all requirements applicable for purposes of redesignation under the 2008 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA*, 265 F.3d 426). Additional measures may also be approved in conjunction with a redesignation action (see 68 FR 25426 (May 12, 2003) and citations therein).

C. Are the air quality improvements in the Chicago area due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA has determined that Wisconsin has demonstrated that the observed ozone air quality improvement in the Chicago area is due to permanent and enforceable reductions in VOC and NO_X emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the State has calculated the change in emissions between 2011 and 2019. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to several regulatory control measures that the Chicago area and upwind areas have implemented in recent years. In addition, Wisconsin provided an analysis to demonstrate that the improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, EPA finds that Wisconsin has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and Enforceable Emission Controls Implemented

a. Regional NO_X Controls

Clean Air Interstate Rule (CAIR)/Cross State Air Pollution Rule (CSAPR). Under the ''good neighbor provision'' of CAA section 110(a)(2)(D)(i)(I), states are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each state's SIP must contain provisions prohibiting emissions from within that state which will contribute significantly to nonattainment of the NAAQS, or interfere with maintenance of the NAAQS, in any other state.

On May 12, 2005, EPA published CAIR, which required eastern states, including Wisconsin, to prohibit emissions consistent with annual and ozone season NO_X budgets and annual sulfur dioxide (SO_2) budgets (70 FR 25152). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions, a precursor of both ozone and $PM_{2.5}$, as well as transported SO_2 emissions, another precursor of $PM_{2.5}$. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA for replacement in 2008. *North Carolina* v. *EPA,* 531 F.3d 896, *modified,* 550 F.3d 1176 (2008). While EPA worked on developing a replacement rule, implementation of the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA published CSAPR to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS.[5] Through Federal Implementation Plans, CSAPR required electric generating units (EGUs) in eastern states, including Wisconsin, to meet annual and ozone season NO_X budgets and annual SO_2 budgets implemented through new trading programs. After delays caused by litigation, EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. On October 26, 2016, EPA published the CSAPR Update, which established, starting in 2017, a new ozone season NO_X trading program for EGUs in eastern states, including Wisconsin, to address the good neighbor provision for the 2008 ozone NAAQS (81 FR 74504). The CSAPR Update is estimated to result in a 20 percent reduction in ozone season NO_X emissions from EGUs in the eastern United States, a reduction of 80,000 tons in 2017 compared to 2015 levels. The reduction in NO_X emissions from the implementation of CAIR and then CSAPR occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

b. Wisconsin Point Source NO_X Reductions

The NO_X emission units at We Energies—Pleasant Prairie Power Plant (FID #230006260) include two coal fired boilers (B20 and B21), two auxiliary natural gas fired boilers (B22 and B23), and four emergency generators (P30–P33). Boilers B20 and B21 are subject to

[5] In a December 27, 2011 rulemaking, EPA included Wisconsin in the ozone season NO_X program, addressing the 1997 ozone NAAQS (76 FR 80760).

the NO_X RACT requirements in s. NR 428.22(1)(a)1.a., Wis. Adm. Code, and shall comply with the NO_X emission limit of 0.1 pounds per million British thermal units (lbs/MMBtu), based on a 30-day rolling average, by May 1, 2009. Pursuant to a consent decree (Civil Action No. 03–C–0371), Boilers B20 and B21 became subject to the NO_X emission limit of 0.08 lbs/MMBtu, based on a 12-month rolling average, by December 31, 2006 and December 31, 2003, respectively. As noted in the source's construction permit #18-RAB–05–ERC, issued on September 7, 2018, boilers B20–B23 were permanently shut down on or around April 10, 2018.

c. Federal Emission Control Measures

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimated that this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 percent and 28 percent, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the on-road emission modeling for the Kenosha portion, as shown in tables 2 and 3 below, the majority of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as remaining older vehicles are replaced with newer, compliant model years.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule is being phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for the sum of VOC and NO_X and for particulate matter. The VOC and NO_X tailpipe standards for light-duty vehicles represent approximately an 80 percent reduction from today's fleet average and a 70 percent reduction in per-vehicle particulate matter (PM) standards. Heavy-duty tailpipe standards represent about a 60 percent reduction in both fleet average VOC and NO_X and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50 percent reduction from current standards and apply to all light-duty and on-road gasoline-powered heavy-duty vehicles. Finally, the rule lowered the sulfur content of gasoline to an annual average of 10 ppm by January 2017. As projected by these estimates and demonstrated in the on-road emission modeling for the Kenosha portion, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-road heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that by 2015 NO_X and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that by 2030 NO_X and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the Kenosha portion, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Non-road Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards were phased in for the 2008 through 2015 model years based on engine size. The SO_2 limits for non-road diesel fuels were phased in from 2007 through 2012. EPA estimated that compliance with this rule will cut NO_X emissions from these non-road diesel engines by approximately 90 percent. As projected by these estimates and demonstrated in the non-road emission modeling for the Kenosha portion, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Non-road Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. EPA estimated an overall 72 percent reduction in VOC emissions from these engines and an 80 percent reduction in NO_X emissions. As projected by these estimates and demonstrated in the non-road emission modeling for the Kenosha portion, as shown in tables 2 and 3 below, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards applied beginning in 2011 and are expected to result in a 15 to 25 percent reduction in NO_X emissions from these engines. Final Tier 3 emission standards applied beginning in 2016 and are expected to result in approximately an 80 percent reduction in NO_X from these engines. As projected by these estimates and demonstrated in the non-road emission modeling for the Kenosha portion, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

2. Emission Reductions

Wisconsin is using a 2011 emissions inventory as the nonattainment year. This is appropriate because it was one of the years used to designate the Chicago area as nonattainment. Wisconsin is using 2019 as the attainment year, which is appropriate because it is one of the years in the 2019–2021 period used to demonstrate attainment.

Wisconsin created the point source emission inventory using annually reported point source emissions, the EPA's Clean Air Markets Division database and approved EPA techniques for emissions calculation (*e.g.,* emission factors) for 2011 and 2019 point source emissions from state inventory databases.

There is one EGU point source facility located in the Kenosha portion. For this facility, Wisconsin used the ozone season NO_X emissions divided by the days of reported operation during the ozone season to represent summer day emissions. The VOC summer day emissions were derived by multiplying the facility's ozone season heat input by an average VOC emission rate.

Wisconsin tabulated the 2011 and 2019 emissions inventories for non-EGU point sources using the emissions data reported annually by each facility operator to the Wisconsin air emissions inventory (AEI). The AEI calculates emissions for each individual emissions unit or process line by multiplying fuel or process throughput by the appropriate emission factor that is derived from mass balance analysis, stack testing, continuous emissions monitoring, engineering analysis, or EPA's Factor Information Retrieval database. The emission calculations in the AEI also account for any operating control equipment.

For the area sources, emissions inventory estimates were based on the 2011 NEI version 2, except for the residential and commercial portable fuel containers and Stage II refueling categories as described below. Emission calculation methodologies used in developing 2011 nonpoint emissions inventory are available in the EPA's 2011 NEI, version 2 Technical Support Document.

For the 2019 attainment year, area source emissions inventory estimates were based on the data interpolation between the 2016 base year and the 2023 projection year of EPA's 2016 version 1 emissions modeling platform. Methodologies used to develop 2016 and 2023 emissions modeling data are available in the EPA's National Emissions Inventory Collaborative Wiki v1 release page (*https://views.cira.colostate.edu/wiki/wiki/10202*).

On-road mobile source emissions were developed in conjunction with the Southeastern Wisconsin Regional Planning Commission (SEWRPC), the Metropolitan Planning Organization for the Kenosha portion. On-road mobile sources are motorized mobile equipment that are primarily used on public roadways. Examples of on-road mobile sources include cars, trucks, buses and road motorcycles. Wisconsin used the Motor Vehicle Emission Simulator (MOVES), the EPA's recommended mobile source model, to develop on-road emissions rates. The version used was MOVES3.

The modeling inputs to MOVES include detailed transportation data (*e.g.,* vehicle-miles of travel by vehicle class, road class and hour of day, and average speed distributions), which were provided by SEWRPC.

The methodology for the 2011 and 2019 non-road emissions categories were developed using the EPA's MOVES3 model, using the same summer day temperatures used for the on-road modeling. The model was run for Kenosha County for the months of June, July and August. Summer day emissions were calculated by dividing the total emissions over these three months by 92 (the number of days in the three months). Emissions were then allocated from the full county to the eastern Kenosha County area based on surrogates such as population, land area and water area, depending on the category.

For commercial marine, aircraft and rail locomotive (MAR) categories, the annual emissions estimates used for Kenosha County are those in the EPA's 2011 NEI version 2.

For the year 2019, the annual emissions estimates used for Kenosha County were obtained by linearly interpolating between the 2016 and 2023 values in the EPA's 2016 emissions modeling platform, version 1.

Summer day emissions for these MAR categories were estimated by dividing the annual emissions by 365. This same value was used in the EPA's 2011 version 6.3 emissions modeling platform. The allocation of the full county emissions to the eastern Kenosha County area is based on surrogates, such as population, land area and water area, depending on the MAR category.

Emissions for Illinois and Indiana were based on inventories developed by those states in 2016 for an earlier round of redesignation requests. For the current document, 2011 and 2030 emissions are directly taken from these earlier inventories, whereas 2019 and 2035 emissions were determined by interpolation from these inventories. The original inventories are in Wisconsin's 2016 redesignation request.

Using the inventories described above, Wisconsin's submittal documents the change in VOC and NO_X emissions from 2011 to 2019 for the Kenosha portion. Emissions data are shown in Tables 2 and 3.

TABLE 2—EMISSIONS REDUCTION OF NO_X EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2011–2019 (tons/day)

Sector	2011 Nonattainment year	2019 Attainment year	Emissions reduction
Illinois			
EGU Point	67.41	35.23	32.18
Non-EGU	52.57	47.55	5.02
Area	32.03	34.63	−2.6
On-Road	285.34	134.38	150.96
Non-road	176.60	121.63	54.97
Total	613.96	373.42	240.53
Indiana			
EGU Point	24.04	4.29	19.75

TABLE 2—EMISSIONS REDUCTION OF NO_X EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2011–2019 (tons/day)—Continued

Sector	2011 Nonattainment year	2019 Attainment year	Emissions reduction
Non-EGU	70.77	59.91	10.86
Area	9.39	0.91	8.48
On-road	24.70	14.91	9.79
Non-road	15.84	13.43	2.41
Total	144.74	93.45	51.29
Wisconsin			
EGU Point	8.71	0.00	8.71
Non-EGU	0.09	0.08	0.01
Area	1.20	1.12	0.08
On-Road	4.82	1.81	3.01
Non-road	2.25	1.64	0.61
Total	17.07	4.65	12.42
Chicago-Naperville, IL-IN-WI 2008 Ozone Area			
Illinois	613.96	373.42	240.53
Indiana	144.74	93.45	51.29
Wisconsin	17.07	4.65	12.42
Total	775.77	471.52	304.24

TABLE 3—EMISSIONS REDUCTION OF VOC EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2011–2019 (tons/day)

Sector	2011	2019	Emissions reduction
Illinois			
EGU Point	0.62	0.97	−0.35
Non-EGU	47.63	45.35	2.28
Area	215.15	232.00	−16.85
On-Road	72.43	66.45	5.98
Non-road	101.83	67.67	34.16
Total	437.66	412.44	25.22
Indiana			
EGU Point	0.54	0.47	0.07
Non-EGU	17.22	10.83	6.39
Area	18.26	17.00	1.26
On-road	9.58	6.80	2.78
Non-road	21.43	5.53	15.90
Total	67.03	40.63	26.40
Wisconsin			
EGU Point	0.38	0.00	0.38
Non-EGU	0.24	0.19	0.05
Area	4.10	3.58	0.52
On-Road	1.90	0.89	1.01
Non-road	1.14	0.70	0.44
Total	7.76	5.36	2.40
Chicago-Naperville, IL-IN-WI 2008 Ozone Area			
Illinois	437.66	412.44	25.22
Indiana	67.03	40.63	26.40
Wisconsin	7.76	5.36	2.40
Total	512.45	458.43	54.02

As shown in Tables 2 and 3, NO_X and VOC emissions in the Kenosha portion declined by 12.42 tons/day and 2.40 tons/day, respectively, between 2011 and 2017. NO_X and VOC emissions throughout the entire Chicago area declined by 304.24 tons/day and 54.02 tons/day, respectively, between 2011 and 2019.

3. Meteorology

Wisconsin included an analysis to further support its demonstration that the improvement in air quality between the nonattainment year violations and the attainment year is due to permanent and enforceable emission reductions and not unusually favorable meteorology. Wisconsin analyzed the maximum fourth-highest 8-hour ozone values for May, June, July, August, and September, for years 2000 to 2021.

First, the maximum 8-hour ozone concentration at each monitor in the Kenosha portion was compared to the number of days where the maximum temperature was greater than or equal to 80 °F. While there is a clear trend in decreasing ozone concentrations at all monitors, there is no such trend in the temperature data.

Wisconsin also examined the relationship between the average summer temperature for each year of the 2000–2021 period and the fourth-highest 8-hour ozone concentration. Given the similarity of ozone concentrations observed at each monitor and the regional nature of ozone formation, Wisconsin conducted this analysis using the average fourth-highest 8-hour ozone concentration from all monitors in the Kenosha portion. While there is some correlation between average summer temperatures and ozone concentrations, this correlation does not exist over the study period. The linear regression lines for each data set demonstrate that the average summer temperatures have increased over the 2000 to 2021 period, while average ozone concentrations have decreased. Because the correlation between temperature and ozone formation is well established, these data suggest that reductions in precursors are responsible for the reductions in ozone concentrations in the Kenosha portion, and not unusually favorable summer temperatures.

Finally, Wisconsin analyzed the relationship between average summertime relative humidity and average fourth-highest 8-hour ozone concentrations. The data did not show a correlation between relative humidity and ozone concentrations.

As discussed above, Wisconsin identified numerous Federal rules that resulted in the reduction of VOC and NO_X emissions from 2011 to 2021. In addition, Wisconsin's analyses of meteorological variables associated with ozone formation demonstrate that the improvement in air quality in the Kenosha portion between the year violations occurred and the year attainment was achieved is not due to unusually favorable meteorology. Therefore, EPA finds that Wisconsin has shown that the air quality improvements in the Chicago area are due to permanent and enforceable emissions reductions.

D. Does Wisconsin have a fully approvable ozone maintenance plan for the Kenosha portion?

As one of the criteria for redesignation to attainment section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to ensure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its request to redesignate the Kenosha portion to attainment for the 2008 ozone NAAQS, Wisconsin submitted a SIP revision to provide for maintenance of the 2008 ozone NAAQS through 2030, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that Wisconsin's ozone maintenance plan includes the necessary components and to approve the maintenance plan as a revision of the Wisconsin SIP.

1. Attainment Inventory

EPA is proposing to determine that Wisconsin portion of the Chicago area has attained the 2008 ozone NAAQS based on monitoring data for the period of 2019–2021. Wisconsin selected 2019 as the attainment emissions inventory year to establish attainment emission levels for VOC and NO_X. The attainment emissions inventory identifies the levels of emissions in the Kenosha portion that are consistent to attainment of the 2008 ozone NAAQS. The derivation of the attainment year emissions is discussed above in section IV.C.2. of this proposed rule. The attainment level emissions, by source category, are summarized in Tables 2 and 3 above.

2. Has the state documented maintenance of the ozone standard in the Kenosha portion?

Wisconsin has demonstrated maintenance of the 2008 ozone NAAQS through 2030 by ensuring that current and future emissions of VOC and NO_X for the Kenosha portion remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Wisconsin is using emissions inventories for the years 2030 and 2035 to demonstrate maintenance. 2035 is more than 10 years after the expected effective date of the redesignation to attainment and 2030 was selected to demonstrate that emissions are not expected to spike in the interim between the attainment year and the final maintenance year. The emissions inventories were developed as described below.

Wisconsin estimated the future year point source emissions by applying growth factors to the 2019 attainment year emissions inventory. Wisconsin's 2030 and 2035 area source emissions were estimated primarily by extrapolating EPA's 2023 and 2028 modeling inventories.

The methodology for the 2030 and 2035 projected non-road emissions categories were developed using the EPA's MOVES3 model, using the same summer day temperatures used for the on-road modeling. The model was run for Kenosha County for the months of June, July and August. Summer day emissions were calculated by dividing the total emissions over these three months by 92 (the number of days in the three months). Emissions were then allocated from the full county to the

eastern Kenosha County area based on surrogates such as population, land area and water area, depending on the category.

For all source categories except commercial MAR, the MOVES3 model was run for Kenosha County at summer day temperatures, assuming the model's default growth projections.

For the three MAR categories, the 2030 and 2035 emissions were calculated by extrapolating from the 2023 and 2028 values from EPA's 2016 Emissions Modeling Platform, Version 1. To avoid underestimating projected emissions, if the extrapolated emissions for 2030 or 2035 were less than those for 2028, the emissions were set equal to those for 2028.

On-road mobile source emissions were developed in conjunction with the SEWRPC and were calculated from emission factors produced by EPA's MOVES3 model and data extracted from the region's travel-demand model.

Projected emissions data are shown in Tables 4 through 5 below.

TABLE 4—PROJECTED EMISSIONS OF NO_X EMISSIONS FOR THE ILLINOIS, INDIANA, AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2030 AND 2035 (tons/day)

Sector	2019 Attainment year	2030 Interim year	2035 Maintenance year	Emissions reduction 2019–2035
Illinois				
EGU Point	35.23	43.59	40.97	−5.74
Non-EGU	47.55	48.56	49.28	−1.73
Area	34.63	34.97	35.04	−0.41
On-Road	134.38	55.94	48.81	85.57
Non-road	121.63	106.80	108.27	13.36
Total	373.42	289.86	282.37	91.05
Indiana				
EGU Point	4.29	1.44	0.42	3.87
Non-EGU	59.91	60.79	61.51	−1.60
Area	0.91	0.88	0.87	0.04
On-road	14.91	6.62	5.51	9.40
Non-road	13.43	10.25	8.49	4.94
Total	93.45	79.98	76.80	16.65
Wisconsin				
EGU Point	0.00	0.00	0.00	0.00
Non-EGU	0.08	0.12	0.12	−0.04
Area	1.12	0.95	0.96	0.16
On-Road	1.81	0.85	0.75	1.06
Non-road	1.64	1.21	1.21	0.43
EGU Emission credit	.....	7.22	7.22	7.22
Total	4.65	3.13	3.04	1.61
Chicago-Naperville, IL-IN-WI 2008 Ozone Area				
Illinois	373.42	289.86	282.37	91.05
Indiana	93.45	79.98	76.80	16.65
Wisconsin	4.65	3.13	3.04	1.61
Total	471.52	372.97	362.21	109.31

TABLE 5—PROJECTED EMISSIONS OF VOC EMISSIONS FOR THE ILLINOIS, INDIANA, AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2025 AND 2030 (tons/day)

Sector	2019 Attainment year	2030 Interim year	2035 Maintenance year	Emissions reduction 2019–2035
Illinois				
EGU Point	0.97	2.52	2.80	−1.83
Non-EGU	45.35	44.71	44.54	0.81
Area	232.00	225.11	225.11	6.89
On-Road	66.45	37.42	34.27	32.18
Non-road	67.67	66.41	67.37	0.30
Total	412.44	376.17	374.09	38.35

TABLE 5—PROJECTED EMISSIONS OF VOC EMISSIONS FOR THE ILLINOIS, INDIANA, AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2025 AND 2030 (tons/day)—Continued

Sector	2019 Attainment year	2030 Interim year	2035 Maintenance year	Emissions reduction 2019–2035
Indiana				
EGU Point	0.47	0.56	0.68	−0.21
Non-EGU	10.83	10.84	10.90	−0.07
Area	17.00	17.58	17.85	−0.85
On-road	6.80	3.77	2.93	3.87
Non-road	5.53	4.80	4.35	1.18
Total	40.63	37.55	36.71	3.92
Wisconsin				
EGU Point	0.00	0.00	0.00	0.00
Non-EGU	0.19	0.26	0.26	−0.07
Area	3.58	3.49	3.56	0.02
On-Road	0.89	0.54	0.47	0.42
Non-road	0.70	0.63	0.62	0.08
EGU Emission credit	.....	0.37	0.37	0.37
Total	5.36	4.92	4.91	0.45
Chicago-Naperville, IL-IN-WI 2008 Ozone Area				
Illinois	412.44	376.17	374.09	38.35
Indiana	40.63	37.55	36.71	3.92
Wisconsin	5.36	4.92	4.91	0.45
Total	458.43	418.64	415.71	42.72

In summary, Wisconsin's maintenance demonstration for the Kenosha portion shows maintenance of the 2008 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2019 emission levels when considering both future source growth and implementation of future controls. As shown in Tables 4 and 5, emissions in the Kenosha portion are projected to decrease by 1.61 tons/day and 0.45 tons/day, respectively, between 2019 and 2035. NO_X and VOC emissions in the entire Chicago area are projected to decrease by 109.31 tons/day and 42.72 tons/day, respectively, between 2019 and 2035.

3. Continued Air Quality Monitoring

Wisconsin has committed to continue to operate the ozone monitors listed in Table 1 above. Wisconsin has committed to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Wisconsin remains obligated to meet monitoring requirements, to continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System (AQS) in accordance with Federal guidelines.

4. Verification of Continued Attainment

Wisconsin has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Kenosha portion. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. Wisconsin will continue to operate the current ozone monitors located in the Kenosha portion. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by the EPA.

In addition, to track future levels of emissions, Wisconsin will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Wisconsin was compiled for 2014. Point source facilities covered by Wisconsin's emission statement rule, Wisconsin Administrative Code NR 438, will continue to submit VOC and NO_X emissions on an annual basis.

5. What is the contingency plan for the Kenosha portion?

Section 175A of the CAA requires that the state adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to ensure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were

contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Wisconsin has adopted a contingency plan for the Kenosha portion to address possible future ozone air quality violations. The contingency plan adopted by Wisconsin has two levels of response, a warning level response and an action level response.

In Wisconsin's plan, a warning level response will be triggered when an annual fourth highest monitored value of 0.075 ppm or higher is monitored within the maintenance area. A warning level response will require Wisconsin to conduct a study. The study would include the two elements. The first element would assess whether actual emissions have deviated significantly from the emissions projections contained in this maintenance plan for the Kenosha portion, along with an evaluation of which sectors and states are responsible for any emissions increases. Second, Wisconsin would investigate whether unusual meteorological conditions during the high ozone year led to the high monitored ozone concentrations. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts and will be completed no later than May 1st of the next season. Implementation of necessary controls in response to a warning level response trigger will take place no later than 18 months from the completion of the study.

In Wisconsin's plan, an action level response would be triggered if a three-year design value exceeds the level of the 2008 ozone NAAQS (0.075 ppm). When an action level response is triggered, Wisconsin will determine what additional control measures are needed to ensure future attainment of the 2008 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. Wisconsin may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Wisconsin included the following list of potential contingency measures in its maintenance plan. However, Wisconsin is not limited to the measures on this list:

1. Anti-idling control program for mobile sources, targeting diesel vehicles
2. Diesel exhaust retrofits
3. Traffic flow improvements
4. Park and ride facilities
5. Rideshare/carpool program
6. Expansion of the vehicle emissions testing program

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan. Wisconsin notes that because it is not possible to determine what control measures will be appropriate in the future, the list is not comprehensive.

EPA has concluded that Wisconsin's maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Wisconsin has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Kenosha portion to cover an additional ten years beyond the initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by Wisconsin for the Kenosha portion meets the requirements of section 175A of the CAA, and EPA proposes to approve it as a revision to the Wisconsin SIP.

V. Has the state adopted approvable motor vehicle emission budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs or projects that receive Federal funding or support, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality problems, or delay timely attainment of the NAAQS or interim air quality milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved maintenance plan for the NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2008 ozone NAAQS in EPA's December 6, 2018 implementation rule (83 FR 62998). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone and their precursor pollutants (VOC and NO_X) to address pollution from on-road transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB, if needed, after it is established in the SIP.

As discussed earlier, Wisconsin's maintenance plan includes NO_X and VOC MVEBs for the Kenosha for 2030 and 2025, the last year of the maintenance period and an interim year. The MVEBs were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The MVEBs were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone NAAQS.

TABLE 6—MVEBS FOR THE KENOSHA 2008 OZONE MAINTENANCE PLAN (tons/day)

Pollutant	2030 MVEB	2035 MVEB
NO_X	0.85	0.75
VOC	0.54	0.47

EPA is proposing to approve the MVEBs for use to determine transportation conformity in the Kenosha portion of the Chicago area, because EPA has determined that the area can maintain attainment of the 2008 ozone NAAQS for the relevant

maintenance period with mobile source emissions at the levels of the MVEBs.

B. What is a safety margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Tables 4 and 5 above, the emissions in the Kenosha portion are projected to have safety margins of 1.61 tons/day for NO_X and 0.45 tons/day for VOC in 2035 (the difference between the attainment year, 2019, emissions and the projected 2030 emissions for all sources in the Kenosha portion. Similarly, there is a safety margin of 1.52 tons/day for NO_X and 0.44 tons/day for VOC in 2030. Even if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

Wisconsin is not allocating any of the safety margin to the mobile source sector. Wisconsin can request an allocation to the MVEBs of the available safety margins reflected in the demonstration of maintenance in a future SIP revision.

VI. Enhanced I/M in the Kenosha Portion

CAA section 182(c)(3) requires states with ozone nonattainment areas classified as serious or higher to implement an enhanced vehicle I/M program. The general purpose of motor vehicle I/M programs is to reduce emissions from in-use motor vehicles in need of repairs and thereby contribute to state and local efforts to improve air quality and to attain the NAAQS. Wisconsin's I/M program has been in operation since 1984. It was originally implemented in accordance with the 1977 CAA Amendments and operated in the six counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha. Sheboygan County was added to the program in July 1993, resulting in a seven-county program area that has remained to the present. Vehicles were originally tested by measuring tailpipe emissions using a steady-state idle test. Tampering inspections were added in 1989. The I/M program is jointly administered by WDNR and the Wisconsin Department of Transportation.

The 1990 CAA Amendments set additional requirements for I/M programs. For moderate areas, a ''basic'' program was required under section 182(b)(4). For serious or worse areas, an ''enhanced'' program was required under section 182(c)(3). EPA's requirements for basic and enhanced I/M programs are found in 40 CFR part 51, subpart S.

Wisconsin's I/M program transitioned to an enhanced program in December 1995. The major enhancement involved adding new test procedures to more effectively identify high-emitting vehicles. These new test procedures included a transient emissions test in which tailpipe emissions were measured while the vehicle was driven on a dynamometer (a treadmill-type Attainment Plan for the Partial Kenosha County 2008 Ozone NAAQS Serious Nonattainment Area 50 device). Improving repairs and public convenience were also major focuses of the enhancement effort.

Since July of 2001, all model year (MY) 1996 and later cars and light trucks have been inspected by scanning the vehicle's computerized second-generation on-board diagnostic (OBDII) system instead of measuring tailpipe emissions. As of July 2008, the program dropped tailpipe testing entirely and has inspected all vehicles by scanning the OBDII system. This change was the result of statutory changes in the State's 2007–2009 biennial budget which exempted model years of vehicles not federally required to be equipped with the OBDII technology (MY 1995 and earlier cars and light trucks and MY 2006 and earlier heavy trucks). To help offset the emissions reductions lost from exempting the pre-OBDII vehicles, the program increased the testable fleet for MYs 2007 and later by adding gasoline-powered vehicles between 10,001 to 14,000 pounds gross vehicle weight rating (GVWR) and diesel-powered vehicles of all weights up to 14,000 pounds GVWR.

EPA fully approved Wisconsin's enhanced I/M program on August 16, 2001 (66 FR 42949), including the program's legal authority and administrative requirements in the Wisconsin Statutes and Wisconsin Administrative Code. On June 7, 2012, WDNR submitted a SIP revision to EPA covering all the changes to the program since EPA approved the program in 2001. This submittal included a demonstration under section 110(l) of the CAA addressing lost emission reductions associated with the program changes. The EPA approved this SIP revision on September 19, 2013 (78 FR 57501).

The legal authority and administrative requirements for the Wisconsin I/M program are found in sections 110.20 and 285.30 of the Wisconsin Statutes and Chapters NR 485 and Trans 131 of the Wisconsin Administrative Code.

To fully address CAA section 182(c)(3) for the 2008 standard, Wisconsin performed a performance modeling analysis that their current I/M program meets the requirements of EPA's enhanced performance standard for areas designated and classified under the 8-hour ozone standard, as specified in 40 CFR 51.351(i). Wisconsin used the most recent version of EPA's mobile source emissions model, MOVES3.0.2, released in September 2021 for the analysis. This modeling was conducted in accordance with the EPA's technical guidance: Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model, EPA–420–B–14–006, January 2014, and MOVES3 Technical Guidance: Using MOVES to Prepare Emission Inventories for State Implementation Plans and Transportation Conformity, EPA–420–B–20–052, November 2020.

The performance modeling analysis involves a comparison of emission reductions from the EPA's model program specified in 40 CFR 51.351(i) and Wisconsin's actual program in the six reformulated gasoline counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha; and the single conventional gasoline county of Sheboygan. In addition, Wisconsin did a demonstration for the subject area of this redesignation request, the Kenosha portion.

To demonstrate that an enhanced I/M program meets the performance standard, the emission reductions from the actual I/M program are within the 0.02 gram per mile (gm/mi) buffer of the emission reductions from the EPA model program under 40 CFR 51.351(i) as defined in EPA's guidance referenced above. Wisconsin's actual I/M program are within the 0.02 gm/mi buffer of the emission reductions from the EPA model program under 40 CFR 51.351(i) for all areas. The 6 county Southeast Wisconsin reformulated gasoline area buffer was 0.0010 gm/mi for NO_X and 0.0047 gm/mi for VOC. The Sheboygan conventional gasoline area buffer was 0.0012 gm/mi for NO_X and 0.0049 gm/mi for VOC. The Kenosha portion area buffer was 0.0011 gm/mi for NO_X and 0.0046 gm/mi for VOC. Therefore, Wisconsin's current I/M program meets the applicable enhanced I/M performance requirements in 40 CFR 51.351 in all areas in which the program is implemented, including the Kenosha portion serious nonattainment area for the 2008 ozone NAAQS.

VII. Proposed Actions

EPA is proposing to determine that the Chicago area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2019–2021. EPA is proposing to determine that upon final approval of Wisconsin's enhanced I/M performance modeling analysis as part of the SIP, the Kenosha portion will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Kenosha portion of the Chicago-Naperville, IL-IN-WI area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Wisconsin SIP, the State's maintenance plan for the area. The maintenance plan is designed to keep the Kenosha portion in attainment of the 2008 ozone NAAQS through 2035. EPA finds adequate and is proposing to approve the newly-established 2030 and 2035 MVEBs for the Kenosha portion. Finally, EPA is proposing to approve the enhanced I/M performance modeling analysis included in Wisconsin's December 3, 2021 submittals, because they satisfy the serious enhanced I/M requirements for the Kenosha portion.

VIII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: February 1, 2022.

Debra Shore,

Regional Administrator, Region 5.

[FR Doc. 2022–02425 Filed 2–4–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 171

[EPA–HQ–OPP–2021–0831; FRL–9134.1–01–OCSPP]

RIN 2070–AL01

Pesticides; Certification of Pesticide Applicators; Further Extension to Expiration Date of Certification Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to extend the deadline by which Federal, State, territory, and tribal certifying authorities with existing certification plans are required to revise their existing certification plans to conform with the updated Federal standards for the certification of applicators of restricted use pesticides (RUPs) up to but not longer than November 4, 2024. Federal, State, territory, and tribal certifying authorities with existing certification plans are required to revise their existing certification plans to conform with the updated Federal standards for the certification of applicators of RUPs and the regulations established the deadline by which the existing plans are set to expire unless the revised plans are approved by the Agency. EPA is proposing this extension to allow additional time for proposed certification plan modifications to continue being reviewed and approved by EPA without interruption to Federal, State, territory, and tribal certification programs or to those who are certified to use RUPs under those programs.

DATES: Comments must be received on or before March 9, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2021–0831, using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI)